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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/099,627	03/15/2002	Berthier Lemieux	324-010889-US (PAR)	2243
2512	7590	09/07/2006	EXAMINER	
PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			AHN, SAM K	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 09/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/099,627	LEMIEUX, BERTHIER	
	Examiner	Art Unit	
	Sam K. Ahn	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/26/06 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,3,4,7,9,10,12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molinari et al, USP 6,308,065 B1 (Molinari, cited previously) in view of DeJaco USP 6,205,130 B1 (cited previously) and Demetrescu et al. US 2001/0053971 A1 (Demetrescu).

Regarding claims 1,9 and 12, Molinari teaches a method and an apparatus for determining the performance of a decoder, which testing apparatus is arranged to be functionally connected to the decoder, the testing apparatus comprising:

a composing means (10 in Fig.7, further shown in Fig.2) for composing test data (see 200 in Fig.6 and note col.9, lines 64-67), a transmitter (55 in Fig.2) for transmitting the test data to the decoder for decoding (202 in Fig.6 and note col.11, lines 13-25), a receiver (50 in Fig.2) for receiving at least part of the inband data (208 in Fig.6), and a comparator (54 in Fig.2) for determining the performance of decoding by comparing the transmitted inband data and the at least the part of the inband data or the received inband data (208,210,212 in Fig.6 and note col.10, lines 44-47).

Although Molinari teaches wherein the received information regarding the received test data comprises information from a control channel (inband data) and voice channel (note col.10, lines 19-27), Molinari does not explicitly teach wherein the test data comprises channel coded parameters.

DeJaco teaches transmission of channel coded parameters (encoded speech parameters, note col.1, lines 24-30 and col.5, lines 22-24) for testing. Therefore, it would have been obvious to one skilled in the art at the time of the invention to incorporate the teaching of DeJaco in the test data of Molinari by including the channel coded parameters in the test data for the purpose of testing whether the received decoded speech parameters meet within a predetermined acceptable range, as taught by DeJaco (note col.5, lines 50-55).

However, Molinari in view of DeJaco do not explicitly teach bypassing a link adaptation process of the decoder, wherein the link adaptation process measures channel quality for selection of a channel codec in the communication system.

Demetrescu teaches during a service mode wherein the link adaptation process measures channel quality for selection of a channel codec in the communication system (note paragraphs 0028 and 0035). Both Molinari and Demetrescu teaches a decoder in a wireless system, wherein Demetrescu further teaches an improvement to select a channel codec based on the link adaptation while Molinari teaches two modes of operation: service mode and testing mode (note col.2, lines 64-66 wherein testing process in testing mode occurs without interrupting the service). Therefore, it would have been obvious to one skilled in the art at the time of the invention to incorporate the teaching of Demetrescu in the system of Molinari in the coder and decoder for the purpose of using proper codec mode selected based on the quality link between the mobile station and the base station, as taught by Demetrescu (note paragraph 0035). As a result, the mobile station and the base station selectively adjusts the codec based on the connection.

In regards to the limitation of bypassing a link adaptation process of the decoder, Molinari teaches both the service mode and the test mode, while Demetrescu teaches link adaptation in the service mode, one skilled in the art would recognize performing the link adaptation during the test mode would interfere from properly testing of the base station of Molinari, since the link adaptation varies coding and decoding depending on the communication link between the base station and the mobile station (note paragraph 0035). Therefore, it would have been obvious to one skilled in the art at the time of the invention to bypass the link adaptation process of the decoder during the test mode for the purpose of preventing any changes made

by the link adaptation of varying coding and decoding depending on the communication link between the base station and the mobile station (note paragraph 0035) in order to accurately test the base station of Molinari.

Regarding claims 3 and 10, Molinari further teach transmitting the test data in the voice (or traffic channel, note col.10, lines 20-27), and transmitting the test data from the testing apparatus to the decoder in the downlink traffic channel and from the decoder to the testing apparatus in the uplink traffic channel (between 14 and 15 in Fig.1 or between 14 and 42 in Fig.7), Molinari does not explicitly teach activating a traffic channel before transmitting the test data.

However, it would have been obvious to one skilled in the art at the time of the invention to active the traffic channel prior to the transmission of the test data for the purpose of properly transmitting the test data, otherwise, the traffic channel which may be in use or is disabled, may not transmit the test data and resulting in as an error in testing.

Regarding claim 4, although Molinari further teaches transmitting the inband data back (Fixed Link Signal) to the testing apparatus (10 in Fig.7), Molinari does not explicitly teach transmitting back in a first available uplink traffic channel time frame. However, it would have been obvious to one skilled in the art at the time of the invention to implement as such for the purpose of expediting the computation of testing results by transmitting in a traffic channel upon availability.

Regarding claim 7, DeJaco further teaches wherein the channel coded parameters are speech parameters (note col.5, lines 50-55).

Regarding claim 13, although Molinari teaches the inband data is arranged to be transmitted back to the testing apparatus in an uplink traffic (FIXED LINK SIGNAL in Fig.7), does not explicitly teach transmitting back in a first available uplink traffic channel time frame, it would have been obvious to one skilled in the art at the time of the invention to implement as such for the purpose of expediting the computation of testing results by transmitting in a traffic channel upon availability.

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Molinari et al, USP 6,308,065 B1 (Molinari, cited previously) in view of DeJaco USP 6,205,130 B1 (cited previously) and Demetrescu et al. US 2001/0053971 A1 (Demetrescu) and in further view of Su et al. USP 6,493,665 B1 (Su, cited previously).

Regarding claim 8, Molinari in view of DeJaco and Demetrescu teach all subject matter claimed, as applied to claim 1. Although Molinari in view of DeJaco and Demetrescu teach determining the performance of channel decoding, do not explicitly teach mode indication inband data filed in AMR full-rate or half-rate speech channel.

Su teaches AMR codec having adaptive speech and channel codec capable of operating at full-rate and half-rate (note col.42, lines 52-57). By applying the AMR

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codec, as taught by Su, in 41 of Fig.7 of Molinari, in order to provide an adaptive rate codec in the system of Molinari, it would have been obvious to one skilled in the art at the time of the invention to incorporate the mode indication inband data field during the testing of codec of Molinari for the purpose of properly testing codec with a predetermined parameters.

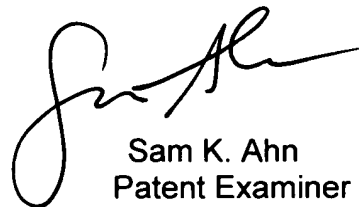
Allowable Subject Matter

4. Claims 5,6 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and overcome the claim objections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Ahn whose telephone number is (571) 272-3044. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ghayour can be reached on (571) 272-3021. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sam K. Ahn
Patent Examiner

9/3/06